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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.    |
|---|-------------|----------------------|---------------------|---------------------|
| 10/599,000  | 09/18/2006  | Kouji Hatano         | NGB-41245           | 3056                |
| 52054   | 7590        | 05/26/2010           | EXAMINER            |                     |
| PEARNE & GORDON LLP<br>1801 EAST 9TH STREET<br>SUITE 1200<br>CLEVELAND, OH 44114-3108 |             |                      |                     | WANG-HURST, KATHY W |
| 2617  |             | ART UNIT             |                     | PAPER NUMBER        |
|   |             |                      | NOTIFICATION DATE   |                     |
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|   |             |                      | 05/26/2010          |                     |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patdocket@pearne.com  
dchervenak@pearne.com

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/599,000             | HATANO, KOUJI       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | KATHY WANG-HURST       | 2617                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 19 March 2010.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 and 7-14 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5 and 7-14 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/19/2010 has been entered.

### ***Response to Amendment***

Applicant's amendment filed on 3/19/2010 has been entered. Claims 1, 5 and 13-14 are amended. Claims 1-5, 7-14 are still pending in this application.

### ***Response to Arguments***

2. Applicant's arguments filed 3/19/2010 have been fully considered but they are not persuasive.

3. Regarding the applicant's argument that the combination of Tagawa and Futamase fails to teach or suggest fading in and fading out are made based on the meta information extracted from the contents being reproduced (page 7-8), the examiner respectfully disagrees. Tagawa discusses a fading in and fading out procedure when a call occurs when a mobile phone is reproducing media content, i.e. listening to some music (Abstract and [0020]). Tagawa also discusses selecting a ring tone based on the calling party during the fading in and fading out procedure ([0023]). In other words, a ring tone is selected based on the caller information that is extracted

from the contact list/metadata stored on the mobile phone. Tagawa does not specifically discuss a ring tone is selected based on the metadata extracted from the contents being reproduced. However, it is well known in the art, a ring tone may be selected in many ways and one of the ways is to select the ring tone based on media content being played at the time of the incoming call. In an analogous art, Futamase discusses a ring tone is generated based on the music being played (see [0230][0231] and Fig. 16). Therefore the combination of Tagawa and Futamase indeed teaches fading in and fading out are made based on the meta information extracted from the contents being reproduced.

Concerning the combination of references, both of the references are from the same field, i.e. communication systems and concern analogous topics. Therefore, the examiner contends that the references would be combinable to one skilled in the art.

Therefore, the argued limitations read upon the cited references or are written broad such that they read upon the cited references, as follow.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tagawa et al (US 2002/0045438) in view of Futamase et al. (2004/0007120).

Regarding claim 1, Tagawa discloses an information terminal, comprising:

a reproducing unit that reproduces contents ([0020], [0062], [0065], where Tagawa discusses playing music files, therefore a reproducing unit);  
an informing unit that informs an occurrence of an event ([0020], [0068], ring tone output unit to inform incoming calls);  
a superposing unit that superposes an output of the reproducing unit and an output of the informing unit ([0020] outputting a ring tone while the reproduction unit is reproducing playing music, therefore superimposing the outputs); and  
a controlling unit that controls an informing of the occurrence of the event and a superposition of the output of the reproducing unit and the output of the informing unit in a reproducing procedure selected from a plurality of reproducing procedures based on meta information extracted ([0020] and [0026] a control unit controlling events and executing [0023] different reproduction modes previously set) so that the superposition is changed gradually ([0112]),

wherein a change of the superposition of the output of the reproducing unit and the output of the informing unit in time series is made based on the extracted meta information (see at least [0055][0127][0128][0129] where Tagawa discusses fading in of the ring tone and fading out of the media reproduction being controlled by the reproducing procedures in a time sequence; [0023] selecting a ringing tone is based on the communicating party, therefore there must be a list/metadata of contact information such that the calling party is detected and recognized based on the list/metadata).

Tagawa also discloses the controlling of the informing of occurring event and a superposition of the reproducing unit and informing unit is performed based on meta

information extracted from the communicating party ([0023]-[0025]), however, Tagawa does not specifically disclose the controlling of the informing of occurring event and a superposition of the reproducing unit and informing unit is performed based on meta information extracted from the contents being reproduced.

In an analogous art, Futamase teaches the controlling of the informing of occurring event and a superposition of the reproducing unit and informing unit is performed based on meta information extracted from the contents being reproduced (see [0230][0231], where Futamase discusses the ring tone is selected based on performance data of the music data being played; and also see Fig. 16, where Futamase shows performance data is extracted from the music information, therefore meta data extracted from contents being reproduced is used to generate the corresponding ring tone).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Tagawa, have reproducing procedure is selected based on media contents being played, as taught by Futamase, thus allowing a better way of handling an interrupt by selecting a ringing tone based on the music being played (see [0230][0231]).

Regarding claim 5, Tagawa discloses a method of informing an event that occurs during reproduction of contents,

controlling a superposition of an output of a reproducing unit and a output of an informing unit and an informing of an occurrence of an event in a reproducing procedure selected from a plurality of reproducing procedures based on meta information

extracted ([0020] and [0026] a control unit controlling events and executing [0023] different reproduction modes previously set) so that the superposition is changed gradually ([0112]),

wherein a change of the superposition of the output of the reproducing unit and the output of the informing unit in time series is made based on the extracted meta information (see at least [0055][0127][0128][0129] where Tagawa discusses fading in of the ring tone and fading out of the media reproduction being controlled by the reproducing procedures in a time sequence; [0023] selecting a ringing tone is based on the communicating party, therefore there must be a list/metadata of contact information such that the calling party is detected and recognized based on the list/metadata).

Tagawa also discloses the controlling of the informing of occurring event and a superposition of the reproducing unit and informing unit is performed based on meta information extracted from the communicating party ([0023]-[0025]), however, Tagawa does not specifically disclose the controlling of the informing of occurring event and a superposition of the reproducing unit and informing unit is performed based on meta information extracted from the contents being reproduced.

In an analogous art, Futamase teaches the controlling of the informing of occurring event and a superposition of the reproducing unit and informing unit is performed based on meta information extracted from the contents being reproduced (see [0230][0231], where Futamase discusses the ring tone is selected based on performance data of the music data being played; and also see Fig. 16, where Futamase shows performance data is extracted from the music information, therefore

meta data extracted from contents being reproduced is used to generate the corresponding ring tone).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the invention of Tagawa, have reproducing procedure is selected based on media contents being played, as taught by Futamase, thus allowing a better way of handling an interrupt by selecting a ringing tone based on the music being played (see [0230][0231]).

Regarding to claim 2, Tagawa discloses the information terminal according to claim 1, further comprising: a storing unit that stores the plurality of the reproducing procedures ([0074] lines 3-5, a memory that stores reproduction methods); and an extracting unit that extracts the meta information to select the reproducing procedure from the contents, wherein the controlling unit causes the superposition of the output of the reproducing unit and the output of the informing unit and the information of the occurrence of the event to execute in the reproducing procedure selected based on the extracted meta information ([0068]).

Regarding claim 3, Tagawa discloses the information terminal according to claim 1, further comprising: a storing unit that stores the plurality of the reproducing procedures ([0074] lines 3-5, a memory that stores reproduction methods); and an acquiring unit ([0150] acquire data) that acquires data that is corresponded to the contents. ([0068] it is inherent that there exists an acquiring unit to acquire data so that the control unit can execute).

Regarding claim 4, Tagawa discloses the information terminal according to claim 1, further comprising: a storing unit that stores the plurality of the reproducing procedures; and a sensing unit that senses a state of the terminal ([0068] can sense/detect the state of the terminal, i.e. terminal is reproducing music when a call arrives), wherein the reproducing procedure is selected based on the sensed state of the terminal ([0068]).

Regarding claim 7, Tagawa discloses the method of informing the event according to claim 5, wherein the reproducing procedure is selected based on information that is corresponded to the contents ([0075]).

Regarding claim 8, Tagawa discloses the method of informing the event according to claim 5, wherein the reproducing procedure is selected based on a state of a terminal ([0067] - [0069]).

Regarding Claims 9-12, combination of Tagawa and Futamase teaches the meta information contains type of the contents being reproduced and information indicating scenario information (see e.g. Futamase: [0116][0124][0136]).

Regarding claim 13-14, combination of Tagawa and Futamase teaches the superposition changing is performed based on type of the contents being reproduced (see Futamase: [0230][0231] and Fig. 16).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KATHY WANG-HURST whose telephone number is

(571) 270-5371. The examiner can normally be reached on Monday-Thursday, 7:30am-5pm, alternate Fridays, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KATHY WANG-HURST/  
Examiner, Art Unit 2617

/NICK CORSARO/  
Supervisory Patent Examiner, Art Unit 2617